IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE ACTING CHIEF JUSTICE MR.K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 15TH MARCH 2007 / 24TH PHALGUNA 1928

WA. No. 681 of 2007()

AGAINST THE JUDGEMENT IN WPC.7881/2007 Dated 09/03/2007
.....

APPELLANT: PETITIONER

M/S.VIVEKANANDA CASHEW FACTORY,
KEERIKAD P.O., RAMAPURAM, ALAPPUZHA DISTRICT.,
REPRESENTED BY ITS MANAGING PARTNER.

BY ADV. SRI.KURIAN GEORGE KANNAMTHANAM (SR.)
SRI.SERGI JOSEPH THOMAS

RESPONDENTS: RESPONDENT

ASSISTANT COMMISSIONER (ASSESSMENT)I,
ALAPPUZHA.

BY SPL. GOVT. PLEADER FOR TAXES SRI V.V. ASOKAN

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 15/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.S. RADHAKRISHNAN, Ag. C.J. & M.N. KRISHNAN, J.

W.A. No 681 of 2007

Dated: 15th March, 2007

JUDGMENT

Radhakrishnan, Ag. C.J.

The writ petition was preferred by the appellant seeking a writ of certiorari to quash Exts. P5 and P7 orders and also for a direction to respondent to grant time for producing the relevant documents before the respondent. Ext. P2 is a notice dated 9.1.2007 granting only seven days time for filing the objections. Petitioner replied to notice vide letter dated 25.1.2007 stating that though the entire books of accounts, statements and audit report for the year 2004-2005 were available the same could not be produced since their accountant was unwell. Two weeks' time was sought for production of records. The learned counsel has referred to Annexure I Circular dated 17.03.2004 which was issued in pursuance of a direction of this court in W.P.C. No 3573 of 2004 wherein it is stated that when pre-assessment notice is issued for the first time, a minimum period of two weeks at least must be given and whether the assessee seeks for a personal hearing or not.

2. We are of the view, the request for two weeks' time does not seem to be unreasonable. Therefore, we are inclined to set aside Exts. P5 and P7 orders and direct the respondent to pass fresh orders after hearing the appellant and affording an opportunity to the petitioner to produce relevant records. The petitioner is given one week's time for production of records. Assessing authority would take note of the documents and dispose of the matter in accordance with law after giving an opportunity of being heard. Judgment of the learned single judge is set aside and the appeal is disposed of.

SD/-
K.S. RADHAKRISHNAN
Acting Chief Justice

SD/-
M.N. KRISHNAN
Judge

15/03/2007
en/

[true copy]